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A N  
E N Q U I R Y  
I N T O T H E  
C A U S E S  
Of the L A T E  
R E B E L L I O N,

A N D

The proper METHODS for preventing  
the like Misfortune for the future.

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Jam fatis terris nivis, atque diræ  
Grandinis misit Pater, et rubente  
Dextera sacras jaculatus arces  
Terruit urbem:

H O R A T.

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L O N D O N :

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## ENQUIRY, &amp;c.

**M**Y Readers will, perhaps, be surprised to find this Enquiry carried so far back as to the Time of the *Revolution* ; but as a good Surgeon will always probe a Wound to the Bottom, before he thinks of applying a Remedy ; so I must go back to that remarkable Period, because I am of opinion, and believe I shall be able to shew, that one of the chief Causes of all the Plots and Rebellions that have since happened in *Scotland*, have been owing to a Mistake then committed, and never to this Day fully rectified.

However much the minute Politicians of this Age may despise Religion, it is what all Governments ought to have a very particular and constant Regard to ; and as the *Christian* Religion is now, and, I believe, ever will be branched out into a great Variety of different Sects, every Government that does not

resolve to set up an Inquisition, ought to take as much Care as possible, not to render any particular Sect its professed or secret Enemy. Laying this down as an undeniable Maxim in Politicks, let us consider the State of *Scotland* at the Time of the *Revolution*, with Regard to Religion. The *Episcopal* Religion, or what we here call the Church, was at that Time, and had been ever since the *Restoration*, the Established Religion in *Scotland* as well as *England*; so that all the Churches were in the Possession of *Episcopal* Incumbents, and under the Direction of *Bishops* in their respective Dioceses; but notwithstanding the ridiculous and cruel Severities used against *Dissenters* in the two preceding Reigns, the People were very much divided. Those in the *South* of *Scotland*, that is, to the *South* of the River *Tay*, were generally *Presbyterians*; whereas, those to the *North* of that River were *Episcopalians*; and Persecution, as it always does, had render'd those two Sects violent, and almost irreconcilable Enemies to each other.

This was the State of *Scotland*, with Regard to Religion, when the *Convention of Estates* met at *Edinburgh*, *March* 14, 1688-9; and without doubt it was in the Power of that Convention either to confirm the then  
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established *Episcopal* Church Government, or to introduce and establish the *Presbyterian*; but which ever of them they might think fit to establish, they certainly ought to have established, at the same Time, a *Toleration* for the other. It could not at that Time be pretended, that the *Episcopal* Clergy in *Scotland* deserved no Favour, because of their obstinately adhering to the *abdicated King*; for no less than *Seven* of their *Bishops* joined in declaring that Convention a free and lawful Meeting; and if any Sort of favourable or mild Measures, with Respect to their Religion, had been pursued, most of the Rest of their *Bishops* would probably have come in; but they began very soon to apprehend, that from this Convention they could expect neither Favour nor Indulgence; and their Apprehensions soon appeared to be just; for by the Eleventh of *April* the *Claim of Right*, or the Declarations of the Nation's Rights and Liberties, was settled and agreed to, with this Clause among others: *That Prelacy and the Superiority of any Office in the Church above Presbyters, is, and hath been a great and insupportable Grievance and Trouble to this Nation, and contrary to the Inclinations of the Generality of the People, ever since the Reformation, (they having reformed from Po-*



*pery by Presbyters) and therefore ought to be abolish'd.*

By this Declaration the *Bishops* and *Episcopal* Clergy saw, that their Religion would certainly be abolished, and themselves divested of their Churches and Benefices, therefore it is not to be wonder'd at, that most of them refused to pray for King *William* and Queen *Mary*, or to read the Proclamation for that Purpose in their Churches, which was appointed to be read by the Ministers of *Edinburgh* on *Sunday* the 14th of *April* 1689, and by the Ministers in the Country on the two following *Sundays*. Nevertheless, in Expectation of some Indulgence, many of them complied with the Terms of this Proclamation ; but their Compliance did them no Service, for as soon as the *Convention of Estates* was declared to be a *lawful and free Parliament*, one of the first Things they did, was to pass an *Act for abolishing Episcopacy*, by which the Revenues of all the *Bishops* became vested in the Crown ; and in their next Session they passed an *Act for ratifying the Presbyterian Confession of Faith, and settling Presbyterian Church Government* ; by which, all *Episcopal* Incumbents, that would not declare themselves *Presbyterians*, were to be deprived of their Stipends and Benefices.



nefices. By another Act of the same Session of Parliament, entitled *An Act for Visitation of Universities, Colleges, and Schools*, it was enacted, That no Professors, Principals, Regents, Masters, or others bearing Office, in any University, College, or School, should either be admitted, or allowed to continue in the Exercise of their Functions, but such as should acknowledge, profess and subscribe to the *Presbyterian Confession of Faith*. And by an Act of the next ensuing Session, held *September the Third 1690*, it was enacted, That no Person be admitted, or continued to be a Minister or Preacher, unless he subscribe the *Presbyterian Confession of Faith*, declaring the same to be the Confession of his Faith, and that he owns the Doctrine therein contained, to be the true Doctrine which he will constantly adhere to, &c.

Whether these Acts, and the *Presbyterian Religion* thereby established, were agreeable to the Inclinations of the Generality of the People of *Scotland*, as asserted by the *Claim of Right*, I shall not give myself the Trouble to enquire; but of this the *Presbyterian* Party seem to have been themselves a little suspicious; for after once getting a *Convention of Estates* to their own Liking, they took care not to trust their Cause to a new Election,

till they had rivetted their Religion in all Parts of the Kingdom, *that Convention* being by its own Act turned into a *Parliament*, and *that Parliament* continued till after *Queen Anne's* Accession, and till after they had obtained from her a Declaration, that she would maintain the *Presbyterian* as the established Religion in *Scotland*, which of course made all the Courtiers declare in their Favour. But I must observe, that the *Presbyterian* Party's getting a Majority in the *Convention*, was no Proof of their having at that Time a Majority among the People; for a great many *Episcopal* Gentlemen of the best Families and Fortunes in the Kingdom, refused being chosen Members of *that Convention*, because some thought that it was unlawful, and others, that it was dangerous to appear in that Assembly.

But which ever Party, whether the *Episcopal* or the *Presbyterian*, was the most numerous in *Scotland*, it is evident from these Laws, that the *Presbyterians* were put into, and the *Episcopalians* turned out of the Possession of by far the most of the *Churches*, and all the *Universities*, *Colleges*, and *Publick-Schools* of that Kingdom. Some of the *conforming Episcopal* Incumbents were indeed, first by Sufferance, allowed to continue in  
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the Possession of their Churches and Benefices, and were afterwards, by an Act passed 1695, confirmed in that Possession during their Lives; but generally speaking, it was by these Laws render'd impossible for those of the *Episcopal* Persuasion, to have any *Publick Worship* for themselves, or any *Publick School* for their Children, unless they would change their *Religious* as well as *Political Principles*; for no *Toleration* was ever established in *Scotland*, till it was done by an Act of the *British Parliament*, in the *Tenth* of the late *Queen Anne*; and it could not be supposed, that any of the *Episcopal* Ministers who had been deprived of their Livings, would take the Oaths to the Government, when they could reap no Benefit by so doing, and were sure of incurring thereby the Contempt and Hatred of all their Brethren; therefore, all those of the *Episcopal* Persuasion in *Scotland* were laid under a Necessity to frequent the *Private Meeting-houses*, and send their Children to be educated at the *Private Schools* set up by the *Nonjuring Clergy* and *School-masters* of their Religion; and these *Nonjuring Preachers* and *School-masters* have ever since that Time industriously propagated their *Political* as well as *Religious Principles*.

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The strong Effect of Education, and the almost insuperable Influence it has upon the Minds of most Men, during their whole Life, especially when the Principles of their Youth are confirmed by the Company and Conversation of their riper Years, are so well known, that every one will, I believe, allow this to be the true Cause of *Jacobitism's* being so prevalent among those of the *Episcopal* Persuasion in *Scotland*; but this might easily have been prevented, if the *Episcopal* Church in that Kingdom had, at the *Revolution*, met with the same *Indulgence* and *Toleration* that was allowed to the *Dissenters* in *England*; for the *Toleration Act* passed in the *Tenth* of the late *Queen Anne*, came too late to have any great Effect. The whole *Episcopal* Party in *Scotland*, especially their *Preachers* and *private School-masters*, were then so hardened in their *Nonjuring Principles*, that few or none of them would take the Oaths to the Government; and tho' legal *Episcopal Meetings* have since been set up, under Authority of that Act, in most of the great Towns, yet in Country Places no such Thing can be expected, unless some *publick Encouragement* be given to such qualified *Episcopal* Clergymen and School-masters as are willing to stay and officiate in *Scotland*;

land; because such of the *Scottish Episcopal* Clergymen as are willing to take the Oaths, will always resort to *England*, in hopes of obtaining some Living or Curacy here, rather than chuse to live in *Scotland* upon the trifling Income they can expect from a Country Meeting-house or Country School.

As a Fund for such a *Publick Encouragement*, the Revenues formerly belonging to the *Bishops* in *Scotland*, ought certainly to be set apart; and to this Fund, I am persuaded, the *Bishops* and other rich Clergymen in *England* would make a very large Addition, by an annual Collection among themselves; both which might be very properly put under the Management of the *Society for Propagation of the Gospel*; for surely it is more for the Interest of the Publick, to have the poor People in *Scotland* bred up in right Principles of Religion and Government, than to have the Natives of *America* bred up in such Principles; and therefore I must recommend what I here mention to the Care of the *Bishops* and Clergy of *England*, who, I hope, have both Zeal and Interest enough to carry it into Execution.

Against granting such a *Publick Encouragement* to the *Episcopal* Party in *Scotland*, I know, it may be objected, that the *Dis-*  
*senters*

*senters* in *England* would from thence take Occasion to insist upon having some *Publick Encouragement* here ; but I must beg Leave to say, that no *Dissenting* Sect whatever can have any just Pretence for being put upon an equal Footing with the *Loyal Episcopal* Party in *Scotland*, because no one Sect of *Dissenters* was ever the *Establish'd Church* in *England*, except during the *Usurpation*; whereas the *Episcopal* was the *Establish'd Church* in *Scotland* from the Time of the *Reformation* to that of the *Revolution*, except under the *Usurpation*, and during the Time that King *James* the VIth of *Scotland* and first of *England*, was under the Power of an Enthusiastick Mob in *Scotland*, whose Preachers often treated him in such a rude Manner, that if he had ever any Biass towards *Popery*, it may justly be imputed to their Insolence; for of all Sorts of Insolence, that of an inlightned Preacher, with an Enthusiastick Mob at his Beck, is the most brutal, and the most provoking to a Man of Sense and genteel Education. When I say this, I do not mean to reflect upon the *Presbyterians*, or any other Sect of *Dissenters* in these our Days; for as they do not now conceit, or so much as pretend, that they have any supernatural Gifts, they are become as conversible,



sible, and as polite in their Behaviour, as the Preachers of any other Sect or Persuasion.

This Objection can therefore have no Force against any Regulation that may be thought proper for encouraging *qualified Episcopal* Clergymen to set up Meeting-houses, and private Schools in *Scotland*; and till some such Regulation be established, it is evident, that an Enthusiastical *Jacobite* Spirit must prevail among those of the *Episcopal* Church in that Part of the united Kingdom, which will always prompt them to rebel against the Government, as often as a foreign War, or any other publick Distress may furnish them with Hopes of Success; consequently there is no other Way for preventing Rebellions in that Country, unless it should be resolved to set up an *Inquisition* against all those who profess themselves of the *Episcopal* Church in that Part of the Island; or to keep them in continual Awe by a numerous Standing Army; neither of which will, I hope, be resolved on, because both are inconsistent with our Constitution, and because either will cost the Publick infinitely more than would be sufficient for encouraging *Church of England* Clergymen, qualified according to Law, to set up *Meetings* and *Schools*, in every

every Part of the Country where they could find any Hearers or Scholars.

That this fatal Neglect, with regard to the *Episcopal* Party in *Scotland* has been the Principal Cause of all the Rebellions, and intended Rebellions, in that Country, since the *Revolution*, is further evident, from their having first broke out in the *North* and *Highlands*, where that Party has always been, and still is the most numerous. That there were, upon every Occasion, other concurring Causes, I shall admit, but this has been always the Chief; and will be 'till some Method be taken to furnish those of that Religion with Clergymen and Schoolmasters, *well affected to the Government*. As to the other concurring Causes in former Rebellions, it is not my Business to enquire into them; but with respect to those that concurred in producing the last, I shall now proceed to enquire into them as far as my Knowledge can reach; and in this Inquiry it is a little surprizing, that the first that must occur to every Man's Observation, derives its Origin from the Measures that were taken after the Rebellion in 1715, to prevent the like for the future.

To prove this I must give my Readers an Abstract of some of the Clauses of an Act  
passed

passed in 1716, intituled, *An Act for the more effectual securing the Peace of the Highlands of Scotland*. By this Law it was enacted as follows :

*Seet. 1.* After the first of November 1716, it shall not be lawful for any Persons within the Shires of *Dumbartain*, on the North Side of the Water of *Leven*, *Sterling* on the North-Side of the River of *Forth*, *Perth*, *Kencardin*, *Aberdeen*, *Inverness*, *Nairn*, *Cromarty*, *Argyle*, *Forfar*, *Bamff*, *Sutherland*, *Caithness*, *Elgine*, and *Ross*, to have in their Custody, use or bear broad Sword or Target, Poynard, Whingar, or Durk, Side Pistol, or Gun, or any other warlike Weapons, in the Fields, or in the Way, coming or going to, from, or at any Church, Market, Fair, Burials, Huntings, Meetings, or any other Occasion whatsoever, within the said Bounds, or to come into the *Low Countries* armed, as aforesaid : And if any Person above described, shall have in his Custody, use or bear Arms, being thereof convicted before one or more Justices of the Peace, or other Judge Competent of the Place, summarly, he shall for the first Offence forfeit all such Arms, and be fined not exceeding 40*l.* nor less than 5*l.* Sterling, and be imprisoned 'till Payment; which if



not instantly paid after Commitment, the said Fine shall be levied out of the Offender's Goods and Estate, by Warrant of the Judge who shall pronounce such Sentence, to be applied, one half to the Informer, and the other at the Sight of the Justices where convicted, towards repairing the publick Works in the Shire; and further liable to a Month's Imprisonment: And being convicted for a second Offence, before the Court of Justiciary, or the Judges at their Circuits, shall forfeit such Arms, and be fined not exceeding 80*l.* nor under 10*l.* Sterling; and for every subsequent Offence, to a Fine double the former, to be levied and applied as above; and for want of Payment or a sufficient Distress, the Offender shall be liable to be transported to the Plantations for seven Years.

*Seet. 6.* The above Prohibition of keeping, &c. any warlike Weapons, and the Penalties aforesaid, shall not extend to Peers of this Realm, nor their Sons, nor any Officers, or their Assistants employed in the Execution of Justice; nor shall this Act extend to hinder any Commoner, having the yearly Income of 400*l.* Scots, or more, or who is otherwise qualified to vote at Elections of Parliament Men for any of the above-nam'd Counties,

Counties, to have in his Custody or use, in Manner allowed by Laws now in Force, any Number of Arms, not exceeding two Fire-locks, two Pair of Pistols, two Swords; the Magistrates of every Burgh Royal, to have in their Custody a sufficient Number of Arms for keeping Guard within their Burghs; and the Inhabitants to use the said Arms in keeping Guard. Provided, that the Arms in Burghs Royal be kept in Magazines under the Care of the Magistrates, and not left in private Houses; and that the whole Number in any Burgh Royal shall not exceed two Hundred: Nor shall this Act extend to hinder the Commission Officers of the Army, and the Soldiers under their Command, to keep, use or bear Arms as formerly; nor the Lieutenants of Counties, their Deputies and the Militia, nor sensible Men under their Command, to keep, or receive Arms out of his Majesty's Magazines, and to use the same during the Time that the Militia and sensible Men shall be called out by lawful Authority.

*Seet. 7.* Provided, that the said Lieutenants, &c. return the Arms so received within twenty Days after the Expiration of the Time for which they were called out, under the Penalties above-mentioned.

*Seēt. 10.* After the first of *August* 1717, and all Time thereafter, the annual Value of the Services, called Personal Attendance, Hosting, Hunting, Watching and Warding, due by Vertue of any Charter, Contract, Custom, or Agreement whatsoever, shall be paid in Money annually instead of them.

*Seēt. 11.* The Persons to whom such Services are due, and those by whom they are payable, shall each for themselves agree mutually for the annual Value, or by Arbitrators chosen by their mutual Consent; and if they cannot agree in that Manner, either Party may apply to the Lords of the Session at *Edinburgh* by Bill or Petition, to have the said annual Value ascertained by them; and the said Lords of Session are summarly to determine the same, after having heard both Parties, or summoned and given them Time to compar.

*Seēt. 13.* Provided, That nothing in this Act shall enervate or take away any other Clause or Article in the said Charters, &c. besides those Clauses by which the said Services of Personal Attendance, &c. are payable.

*Seēt. 16.* Such Persons as his Majesty shall appoint under his Sign Manual, shall, on or before the first of *December* 1716, lay before  
fore



fore his Majesty, an Account of the proper Places for establishing Schools, and of the necessary Salaries for the Maintenance of them, that all needful Provision may be made for that End.

This Law I must beg Leave to examine, which I shall do with that Freedom a *British* Subject is intitled to, but with all possible Respect to the Legislature; for as our Parliaments do not pretend to Infallibility, tho' it be our Duty to give Obedience to a Law while it continues unrepealed, we may, and it is even our Duty to give our Reasons for having it repealed, when we think it imprudent, or inconsistent with the Publick Good, which, in my humble Opinion, is the Case with respect to this Law, as well as another of the same Nature lately passed, and my Reasons are as follow.

From the Map any Gentleman may see, that by this Act the greatest Part of *Scotland*, and by far the most warlike, was, so far as this Law could reach, to be absolutely disarmed, which in all Ages has been, and with Reason ought to be deemed, the greatest Affront, and the most provoking Badge of Slavery, that can be put upon a People. If this had been a general Law, if the whole Island had been put under a like Prohibition,

it might perhaps have been deemed a wise Precaution, for preventing Insurrections and preserving the Publick Tranquillity, at least no one Part could have had any particular Reason to complain; but thus to disarm the People of one Part of the Island only, was in some measure to tell them, that they were no longer to be look'd on as Subjects but Slaves.

Could it be supposed, that this Law would convert, those who were before, in Consequence of their *Hereditary Right Principles*, disaffected? Was it not evident, that it would wean the Affections of those who were before well-affected to our present happy Establishment? And that however the Obedience of their chief Noblemen and Gentlemen might be insured by their Fears, or by Posts and Pensions, the Obedience or Fidelity of the common People, and those who had little or nothing to lose, was not at all to be depended on? No People delighted more in Arms than the very common Fellows in the *North of Scotland*, especially the *Highlands*: No People had been longer or more accustomed to wear them; and to disarm them all at once, was the most certain Method we could take, for making them embrace

brace the first favourable Opportunity of rebelling against the Government.

To ask, how could they rebel after being disarmed, is ridiculous; for in such an extensive open Country, it is so easy to hide, or to import and conceal Arms, that it could not be supposed, the Disaffected would deliver up *all their Arms*, much less that they would not be furnished with Arms by the first Potentate we declared War against; we must therefore suppose, that by this Law we disarmed our Friends only, and thereby disabled them from preventing or opposing any Insurrection that might afterwards be resolved on by the Disaffected.

After having by this Regulation done what we could to render the common People, and all those of inferior Rank, in that Country disaffected, or at least discontented, it is surprising how any one could think of abolishing their Dependence upon their Chiefs, which was the Intention of the 11th and 13th Sections above recited. On the contrary, we should rather have augmented that Dependence if possible; because by Posts or Pensions we might have secured the Affections of their Chiefs; and the greater Dependence those of inferior Rank had upon them, the more ready would they have been to have



follow'd them in the Service of the Government, tho' contrary to their own Inclinations: At least it would have prevented those of inferior Rank from joining in any Rebellion against, if their Chief had declared in favour of the Government.—It was therefore very lucky for us that these Clauses had no Effect; and, indeed, no Effect could be expected from them by those who knew any thing of the Nature of Tenures in *Scotland*.—By these Clauses, 'tis true, *Vassals* or Tenants might oblige their *Superiors* or Lords to accept of a yearly Rent in Money, in Lieu of all *Personal Military Services*; but by the 13th Section all other Services and Rights of Superiority were reserved, and by these the *Superior* might find so many Ways to distress a *Vassal* who disobliged him, that none of the Latter durst attempt to compel their *Superiors* to accept of a Money-Rent in Lieu of all *Military Personal Services*. Accordingly, we find, that this Part of the Law has had little or no Effect: The *Vassals* are still as much under the Power of their *Superiors* as formerly, few or none of them having claimed the Benefit of this Law; which, as I have said, was very lucky for us in the late Rebellion; for had it been otherwise, had all those of inferior Rank been quite independent  
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of their Chiefs or *Superiors*, and at full Liberty to follow their Inclinations, I am convinced, a much greater Number of them would have joined in the Rebellion; it being impossible to suppose, that the People can be truly well-affected to that Government which has set such a particular Mark of Infamy upon them, as to prohibit their wearing or having in their Custody, any Arms offensive or defensive, whilst all the rest of his Majesty's Subjects are allowed the free use of them; and if the Inclinations of the Majority of the People were against the Government, the Success which the Rebels at first met with, would have given Courage to all those of inferior Rank, who not being acquainted with the Inclinations of the People of *England*, nor with the Resources the Government had at its Command, might from the first Success suppose, that by joining in the Rebellion they should reap Laurels instead of Halters.

If a great Part of that Country joined in the Rebellion in the Year 1715, it was owing, as I have said, to their having been, by the Neglect of the Government, bred up from their Infancy in *Jacobite Principles*, which afforded a good Reason for disarming all those who professed such Principles; but

surely it could be no Reason for disarming those who never had professed those Principles, nor had ever appeared disaffected to our present happy Establishment ; much less could it be a Reason for disarming such as had upon that very Occasion appeared in Arms, and ventured their Lives and Fortunes in Defence of the Government. This was, with regard to them, something so like an ungrateful Return, that if it had been in their Power, we could not expect their appearing in Arms for our Defence upon any future Occasion.

But the Truth is, it was not left in their Power to appear in Arms either in their own Defence, or in Defence of the Government ; for tho' when this Law was passed, it was intended, as appears by the *sixth* Section above recited, to establish *Magazines* of Arms in each County, for the Use of the *Militia*, no such *Magazines* were ever since thought on ; so that when the *Pretender's* Son's landing amongst them, the well-affected had no Arms wherewithal to oppose them, nor could they come at any 'till they were sent from hence ; therefore no Man who knew any thing of the State of that Country, could be surpris'd at the



the Rebellion's coming to such a Head, before any Opposition could be made to it.

When the Law under my Consideration was passed, there seems to have been another very good Intention, which has been equally neglected. That Intention was, as appears by the 16th Section, to erect Schools at the Publick Expence in the *Highlands* and *North of Scotland*, for educating the Children of the Poor, and breeding them up in Right Principles. If such Schools had been erected, and put upon the same Footing with the Charity Schools now setting up almost every where in *Ireland*, I believe, a very small Fund from the Publick would have been sufficient, because many loyal Gentlemen in *England* as well as *Scotland* would have contributed to their Maintenance and Encouragement, especially if some of them had been provided with Masters and Overseers of the *Episcopal* Religion. But this good Intention was so far from being pursued, that no such *Sign Manual* as is mentioned in this Section, was ever issued, so far as I have upon Inquiry been informed.

Thus every Part of this Law, which would have effectually tended to secure the Peace of the *Highlands*, and *North of Scotland*, was neglected, and that Part only which  
tended

tended to render the whole Country disaffected, or at least discontented, was carried into Execution.—Nay, so zealous were we for carrying this Part of the Law into Execution, that in the Year 1725 a new Act passed for disarming the People of that Country, that is to say, for disarming those that had been before disarmed; and for inflicting higher Penalties upon Transgressors.—What renewed our Spleen against the Northern People at that Time, I do not know; for I never heard that any one of them was concerned in the famous Plot formed, or rather imagined, by *Lawyer Layer*, or in any other Plot said to have been formed about the same time. But whatever was the Cause, our Spleen rose at that Time so high, that we resolved to transport any Man of that Country who should be found with Arms in his Custody; and some were for stripping the *Highlanders* naked of Clothes as well as Arms; for a Clause was proposed to be added to that Bill, prohibiting the Use of the *Highland Garb*, without regarding whether the Persons so to be stript of their Clothes, had Money to furnish themselves with any of a different Fashion. Luckily for the Poor of that Country this Clause was rejected; and as the Law itself was suffered to expire, I shall say no more

more of it; but I cannot omit the Protest entered upon the *Journals of the House of Lords* against passing this Act, because it will confirm what I have said upon the Subject.

The Protest was as follows :

*Die Lunæ 3<sup>o</sup> Maij, 1725.*

*Hodie tertia Vice lecta est Billa, entitled, An Act for more effectually disarming the Highlanders, in that Part of Great-Britain called Scotland, and for the better securing the Peace and Quiet of that Part of the Kingdom.*

The Question was put, Whether this Bill with the Amendments shall pass?

It was resolved in the Affirmative.

*Dissentient*

I. Because the Bill sets forth, that many Persons in the *Highlands* commit many Robberies and Depredations, and oppose the due Execution of Justice against Robbers, Outlaws, and Persons attainted; which Assertion we conceive, was meant as an Inducement to pass the Bill, and therefore should have been fully made out by Proof, or have been undeniably clear from its Notoriety; but no Proof was attempted to be made of it; and  
we



we have not heard that such Outrages, as are charged upon the *Highlanders*, have been committed by them of late.

2. We apprehend that the Bill gives to Lords Lieutenants of Counties, Justices of the Peace, and others, such large and discretionary Powers, in some Cases, as are hardly to be trusted in the Hands of any Persons in a free Government, unless apparently necessary to the Preservation of it.

3. Since the Behaviour of the *Highlanders* has been peaceable and inoffensive for some Years past, and is so at present, as far as appears to us, we cannot but fear this Bill may prove unseasonable, may hazard the Loss of that invaluable Blessing which we now enjoy, a perfect Calm and Tranquillity, and raise amongst these People, that Spirit of Discontent and Uneasiness which now seems entirely laid; for we apprehend, that the Execution of some Authorities in this Bill is more likely to create, than to prevent Disorders; we think it applies severe Remedies where, as far as we can perceive, there is no Disease, and this at a Time when the *Highlanders* not being accused of any Enormities, for which, in our Opinion, the Legislature ought in Justice to punish them, or in Prudence to bear them, we think it would become us, as good Patriots,

ots, to endeavour rather to keep them quiet,  
than to make them so.

*Wharton, Boyle,*  
*Gower, Litchfield.*  
*Scarsdale,*

When the Effects of such a Law had been so plainly foretold : when this Prophecy was so fully verified by the Event, who could have imagined, that such another Law should have been thought of in the last Session of Parliament ; and that to this new Law we should have added the stripping Clause formerly rejected ? Surely we do not think that Disaffection, like the Plague, may be communicated by the Air, or by Clothes of any Kind or Fashion. If this Part of the Act be put vigorously in Execution, it will actually reduce the Poor of that Country to a Necessity of going almost stark naked ; for it is not in the Power of many of them to purchase a Suit of Clothes in the modern Fashion, which they must buy of a Woollen-draper, and have made by a Taylor in the Low-Country, perhaps at forty Miles distance ; whereas their own usual Garb is manufactured and made by their Wives and Daughters, so that it costs them nothing but the

the Weaving, which they often pay in Labour. But as the Law passed last Session was introduced in a Hurry, and past in a thin House, it is to be hoped the Affair will be reconsider'd in this Session, and more proper Methods contrived for securing the Peace of the *Highlands* and *North of Scotland*, which is the only Design of this Enquiry; for if this Act be continued, and no properer Methods taken, I doubt much if an Army of ten Thousand Men can secure the Peace of that Country, even during the War we are now engaged in. The Court of *France* may not always be under the Direction of the *D'Argensons*; and if this Law be continued, five Thousand foreign Troops landed in that Country, with all proper Implements of War, might soon swell to an Army of twenty or thirty Thousand Men, made desperate by considering, that

*Unica salus erit, nullam sperare salutem.*

I have shewn the Reason why most of those of the *Episcopal* Church in *Scotland* are tainted with *Jacobite* Principles; and that they must continue to be so, till Methods be taken to provide them with *Episcopal* Preachers and School-masters, that are not tainted with such Principles. I have also shewn the Reason



Reason why all the People of the *North* and *Highlands* of *Scotland* are discontented at least, if not disaffected to our present happy Establishment; and that they must continue to be so, as long as they are the only People in the *British* Dominions, that cannot, by taking the Oaths, intitle themselves to the Use of Arms. And I shall now give the Reasons why it is more easy in that Part, than in any other Part of the Island, for the Disaffected and Discontented to raise a Rebellion.

With Regard to the *Highlands*, as few Strangers have ever yet settled among them, as the Country may be said to be still in the Possession of the first Planters, that *Clannish* Disposition, that Attachment a Man has for the Chief of his Family, or Tribe, which from History we find to have prevailed among the *Aborigines* of all Countries, is still very general and very powerful among them, and is industriously inculcated from their most tender Infancy.—They may be said to suck it in with their Mother's Milk; and they are taught to believe, that this is the Paramount, and ought to be the governing Principle of a Man's whole Life. Their Duty to their King, their Duty to their Country, nay even their Duty to God, are by those People too generally thought subordinate to the Duty  
they

they owe the Chief of their *Clan*.—If a *Highland* Chief tells his *Clan* they must go to fight, they never ask the Cause, nor do they ask what Side he is to engage on, in Case of a Civil War.—However reasonable such Questions may be thought in other Parts of the World, they would there be thought highly impertinent.—Nay, the *Clan* will follow their Chief against their Inclinations, against their Conscience ; of which we had a notable Instance in the Year 1715, in the Case of the *Frasers*.—Most of that *Clan* had joined in the Rebellion then fomented by the late Earl of *Mar* ; and from their Education we must suppose, that they did this in pursuance of their real Inclinations and Principles ; but no sooner did they hear of their Chief, the present Lord *Lovat*'s having landed at *Inverness*, and declared in Favour of the Government, than they all left the Earl of *Mar*, who was then at *Pertb*, returned to *Inverness*, and declared against the Cause they had before espoused.

Tho' this extravagant *Clannish* Disposition produces many bad, it produces one good Effect ; for as the Chief knows, that every Man of his *Clan* will be ready to fight for him, or for any Cause he espouses, for this Reason he takes all possible Care to encourage  
military

military Discipline, and to propagate a war-like Spirit among them.—The sordid Consideration of a high Rent is not in that Country the only Thing a Landlord has in View.—He looks upon his Tenants as his Soldiers, therefore he never squeezes them up to a Rack-Rent, but on the contrary, eases a Man who gains a Character among his Neighbours for Courage and Dexterity in military Exercises. Hence it is, that the People of that Country have always hitherto been from their Infancy bred up to Arms; and that from the highest to the lowest, Courage is among them look'd on as the highest Virtue, and Cowardice as the most abominable and infamous of all Vices.—This is certainly a very good Effect, and might be made good Use of, if Care were taken to have the Chiefs educated in right Principles; but it will always be attended with this Disadvantage, that it is thereby made easy for a Number of these Chiefs to raise a Rebellion against the Government, as *Scotland* has often fatally experienced, when it was a separate Kingdom, and when this *Clannish* Disposition prevailed in every Part of the Country.

It is therefore the Publick Interest to abolish, or at least to moderate this *Clannish*  
C Disposition;



Disposition ; but this is not to be done at once by a prohibitory Law, let the Penalties be never so severe.—We may as well enact, that a Blackamore shall be white, or that a brave Man shall be a Coward, as to enact, that a *Scottish Highlander* shall not have a profound Respect for the Chief of his *Clan*.—A Change in this Respect must be brought about by proper Regulations, and by Degrees.—Even without any extraordinary Helps, this extravagant *Clannish* Disposition will gradually decrease, by the natural Course of Things.—It is not yet two Hundred Years since it prevailed all over *Scotland* ; and while it did, the People of the *Low Country* were equally warlike, and equally accustomed to Arms, with those in the *Highlands*, as appeared often in Battles or Skirmishes between them. But since Trade and Manufactures have been introduced, and since the landed Gentlemen in the *Low Country* began to think of Nothing but improving their Rents, not only this *Clannish*, but what is much worse, this warlike Spirit is quite extinct among the common Sort of People.

Surely, there is not such a Connection between a *Clannish* and a warlike Spirit, as that the one cannot be abolished, without at the same Time extinguishing the other. The former,

former, especially when it becomes the paramount Principle of Action, is always of dangerous Consequence to the internal Peace of a Country ; but in free Countries it is absolutely necessary to propagate and preserve the latter, among the Gentlemen and better Sort of Commonalty ; for where this is not done, the Country must either become a Prey to a foreign Enemy, or a numerous Standing Army must be kept up in the Heart of it ; and to this Army the Liberties of the People will certainly at last become an easy Prey. I shall therefore take this Opportunity of recommending to our landed Gentlemen not to be so anxious about improving their Rents, as entirely to neglect the propagating of a warlike Spirit and Discipline among the Farmers and others that depend upon them ; for in the Time of a Civil War, it is not the Revenue of a Gentleman's Estate, but the Number of brave and well-disciplined Soldiers he can by his own Authority bring into the Field, that makes him considerable in his Country ; and the best Laws that ever were or ever can be invented, will prove but a weak Fence for the Liberties of the People, if they are not at all Times ready with their Swords, to take signal Vengeance of those who have attempted to break thorough, or

evade the Laws contrived by their Ancestors, for the Preservation of publick Liberty. An over-grown Minister, with a corrupt Parliament, and a mercenary Army, may despise the Menaces of an unarmed, undisciplined Multitude, but a brave warlike People would soon cut asunder the Bands of Corruption, and disperse his mercenary Protectors.

Therefore, instead of taking Methods to extinguish the warlike Spirit that prevails among the People in the *Highlands* of *Scotland*, all the landed Gentlemen in the Island ought to imitate the *Highland* Chiefs, in propagating a warlike and brave Spirit among all those that depend upon them. This Sort of Spirit may be preserved, tho' from the Experience of what has happened in the *Low Country* of *Scotland*, we must conclude, that from the natural Course of Things, the *Clannish* Spirit which now prevails in the *Highlands* only, will become at last entirely extinct. But that Effect which Nature will produce in a Length of Time, may, like many other natural Productions, be very much precipitated by Art. A few proper Regulations may in a short Time abolish in a great Measure this *Clannish* Disposition; and for this Purpose, nothing can have a greater Effect than the erecting of publick Charity Schools in the

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*Highlands*, upon the same Model with those lately set up in *Ireland*, and providing some of them with *Episcopal* Masters and Overseers, qualified according to Law, by which the common People would of Course be taught, that the Duty they owe to the Chief of their Tribe or *Clan*, instead of being look'd on as the Paramount, ought to be considered as a Duty subordinate to that which they owe their Creator, their King, and their Country.

To this let me add, that in order to produce the desired Effect the more early, we ought to endeavour to put the People of that Country into the Hot-bed of Trade and Manufactures, which might be done at a very small publick Expence, by improving some of the many natural Harbours they have in the *West* and *North Highlands*, and giving Encouragement to Merchants and others to build Houses, and set up a foreign Trade at those Ports. This would furnish the People with a convenient and ready Vent for any Manufactures they might set up; and the Increase of our Fisheries and Seamen would soon be a Compensation to the Publick, for the Expence it had been put to.

Surely, the Fishing Trade upon our own Coasts deserves as much our Attention, as

that upon the Coasts of *North-America*— Neither ought to be neglected; but if any Difference be made, it should be in Favour of that upon our own Coasts; and therefore it is surprising to hear such a Rout made about the Preservation of *Cape Breton*, when at the same Time we do not bestow a Thought upon the beneficial Fishing Trade that might be carried on upon the *Western* and *Northern* Coasts of *Scotland*, especially that of the *Herring Fishery*.—I am very sensible of the Importance of *Cape Breton*, if at the same Time we preserve our Possession of *Newfoundland*:—I hope, neither will ever be openly given up, or secretly betrayed to the Enemy:—I hope, we shall be able by the next Treaty of Peace, not only to establish our Right to *Cape Breton*, but to make the *French* give up their Right of drying Fish upon the *Northern* Coasts of *Newfoundland*; but our Care of the *American* Fishery ought not to make us neglect that upon our own Coasts, particularly that of *Herrings*, which our Neighbours the *Dutch* make such an Advantage of, and by which they maintain such a Number of Seamen. This Trade we can never recover but by erecting Ports upon the *Northern* and *Western* Coasts of *Scotland*, where the *Herring Fishery* Season first begins; and

my Reason for saying so is, because the great Profit by this Trade will always be run away with, and consequently the Trade ingrossed, by those who can supply the foreign Markets with the first fresh or powdered *Herrings*; for they get such a Profit upon the first Cargoes they carry to Market, as enables them to sell the rest for little more than Prime-Cost. For this Reason, when the *Dutch Herring Fleet* goes out, they always take along with them several Runners or prime sailing Ships, whose Business is not to fish, but to receive from all the Fishing Vessels of the Fleet, the first *Herrings* they take, and as soon as the first of these Runners is loaded, she sails away directly to the best Market, the second to the second best, the third to the third best, and so on till they have glutted all the Markets in *Europe* with fresh or powdered *Herrings*; then the Fleet continue their Fishing as long as the Season lasts, and return with their Cargoes to *Holland*, where their *Herrings* are relanded, repack'd, and cured for long keeping; from whence they are sent by Degrees, in the Winter Time, to the several foreign Markets, and sold at a very small Advantage.

Now, as the *Dutch Herring Fleet* consists generally of 14 or 1500 Ships, they will al-



ways by this Means be able to undersell, and consequently ruin any Company, or any private Adventurer that sends but one or a few Ships upon this Trade, from any distant Port of this Island; but if we had several Ports upon the *West* and *North* of *Scotland*, where the Shoals of *Herrings* always first come, tho' often a Week or two sooner or later than usual, and proper Ships in those Ports for sailing to the *Baltick*, the *Bay of Biscay*, or the *Mediterranean*, private Adventurers might often get the start of the *Dutch* at all the foreign Markets; because the Shoals of *Herrings* come so near the *Western* and *Northern* Islands of *Scotland*, that the People go out in open Boats and catch vast Quantities of them; but as they have at present no Ships ready at Hand to carry their first *Herrings* to any foreign Market, nor any Vent for more than is consumed in the Neighbourhood, they give over fishing, as soon as they find they have got a sufficient Quantity for that Purpose; whereas if there were proper Vessels in some neighbouring Port for carrying their *Herrings* directly to foreign Markets, they would not only watch the first Shoals that appeared upon the Coast, but would provide such a Number of Boats and little Vessels for fishing, as might in one Day or two load several

veral Ships for the foreign Markets. By this Means our Merchants upon the *Western* and *Northern* Coasts of *Scotland* would reap the Advantage of being the first at all the foreign Markets, and this would enable them to undersell the *Dutch* at all Markets during the Winter; for at *Glasgow* they now know the Method of Curing for a Winter Sale, and make as good *Salt Herrings* as any that come from *Holland*, but such is the Advantage of being the first in supplying the foreign Markets, that *Dutch Herrings* may be imported, and sold cheaper at *London* than those that are Cured by the *Glasgow* Traders.

Thus by means of proper Ports, and a Number of prime sailing Ships upon the *Western* and *Northern* Coasts of *Scotland*, we might in a short Time ingross the whole Trade in *Herrings* to ourselves, which would of Course increase both our *Cod* and *Whale* Fisheries; and this would not only increase the Number of Inhabitants in our *Northern* and *Western* Islands, but also would render almost every Man of them a *compleat Sailor*; which would so much increase the Number of our Seamen, that we should never be in want of them, nor ever obliged to have Recourse to the Method of Pressing, for Man-  
ning

ning our Navy upon any Emergency; whereas most of those Seamen employed in our *American Fisheries*, are at such a Distance, that we cannot make use of them for manning our Navy upon any sudden and unforeseen Necessity.

Besides these and many other Advantages, it is evident, that a flourishing Trade upon the *Western Coasts* and Islands of *Scotland* would produce such a Resort of Strangers to that Country, and such a frequent Inter-course between the Inhabitants and those of the other Parts of the Island, as would in a few Years put an End to that *Clannish Disposition* which at present prevails among the People; and as the landed Gentlemen would then be all engaged in the Fishing Trade, and in a Way of improving their Fortunes daily, it would not be easy to persuade them to join in any Plot or Rebellion against the Government; especially, if proper Care were taken to have them educated in right Principles, and the Discontents of the People removed by repealing those disarming Laws which have established such an invidious and galling Distinction between them and the rest of his Majesty's Subjects. I mean only those Laws which seem to impress the Character of Disaffection upon the Soil, the Air or Climate,



mate, of certain Counties, as if every Man born in that Soil, Air or Climate must necessarily be a *Jacobite*; for as to those Laws by which *Papists* and *Nonjurors* are to be disarmed, none of them ought to be repealed, but further enforced if possible.

If these Methods were steadily pursued but for a few Years, and Care taken to discipline as well as arm the well-affected, the Numbers of the Disaffected would become so inconsiderable, that should they have fresh Arms put into their Hands by a foreign Enemy, the *Militia* of the Country would always be able to give a good Account of them, as well as of any Number of foreign Troops that could by Stealth be sent to their Assistance. This would always be the Case under a just and mild Government; and, I hope, the Legislature will never think of Methods for supporting any other Sort of Government in that, or any other Part of the *British* Dominions; but I must observe, that the supreme Government of a Country may be just and mild, and yet in some particular Parts the People may be cruelly oppressed. This may more probably happen to be the Case in *Scotland*, than in any other Part of the *British* Dominions, because of the great Power the Lords of Manors and other

ther hereditary Jurisdictions still retain, not only over their *Vassals*, but also over all those that live within their Jurisdiction, which is another Reason for its being more easy to raise Rebellions in *Scotland* than in any other Part of his Majesty's Dominions.

For setting this Reason in its proper Light, I must beg Leave to give a short Account of the Tenures and other hereditary Jurisdictions still subsisting in *Scotland*.

The Lands in *Scotland* are still held as the Lands in *England* formerly were, by *Military Service* or in *Common Soccage*; the former is there called *Ward*, the latter *Fewholding*. As to *Fewholdings* the *Superior* has very little Power over his *Vassal*, unless he be possessed of some of those *Jurisdictive* Powers which shall be hereafter explained. But as to *Wardholdings*, which is that sort of Holding by which most of the Lands in the *North*, especially the *Highlands* of *Scotland*, are held to this Day, the *Superior* has great Power, by means of several Rights he is by Law intitled to, which in *Scotland* are called *Casualties*, because they casually happen to accrue to him; as first, If the *Vassal* who succeeds to the Estate be a Minor or under Age, the *Superior* has the whole Estate of the Male Heir 'till he be Twenty-one, and of the

the Female Heir 'till she be fourteen Years old, and possesses the Rents and Profits without any Account, being obliged only to give the Heir a proper Education, and to keep the Mansion-House, Garden and Park in due Repair; so that if the Ancestor has disoblged his *Superior*, his Infant Heir can neither get Education, nor the Mansion-House, &c. kept in Repair, without a Law Suit, which is both expensive and dangerous.

2dly, Let the Necessities of the *Vassal* be never so urgent, he cannot sell any Part of his Estate without the *Superior's* Consent; because if he sells more than half, tho' at different Times, the whole Estate becomes forfeited to the *Superior*.

3dly, If the *Vassal* Heir be not married at the Time of his Ancestor's Death, the *Superior* may offer him a Woman for his Wife, and if she be his Equal, and he refuses to accept her, and marries another, he forfeits three Years Rent of his whole Estate to his *Superior*. Nay, tho' the *Superior* do not offer him any Woman for Wife, yet upon his Marriage, he forfeits two Years Rent of his whole Estate to his *Superior*, which Forfeiture, when rigorously exacted, must fall very hard upon a Gentleman just married, especially in *Scotland*, where a Man of 500 *l*.



a Year, can seldom get more than 500*l.* Fortune with his Wife.

These are Rights peculiar to *Ward-holdings*, and there are others common to *Few* as well as *Ward-holdings*, as

1. If the Heir do not immediately after the Ancestor's Death enter, or get himself infeoffed in the Lands, the Superior has a Right to a yearly Rent, equal to the Rent of the Estate, as it is valued upon the King's Books, that is to say, the Rent at which it pays the *Land Tax*; and whenever the Superior pleases, he may summon the Heir to enter, after which he is intitled to the whole Rent, and by a short Process he may enter into the Possession, tho' the Heir be abroad at the Time, and perhaps ignorant of his Ancestor's Death.

2. When the Heir enters, or gets himself infeoffed in his Ancestor's Estate, he must pay an Acknowledgment to his Superior, which is called *Relief*. In *Few-holdings* this Acknowledgment or *Casualty* is inconsiderable, being only double the *Few-Duty* or *Quit-rent*; but in *Ward-holdings* it is the full Value of one Year's Rent of the Estate, when the Superior happens to be in Possession; and even when the Superior is not in Possession, it is the full Value of one Year's Rent of the Estate, as it stands rated in the King's Books.

3. If

3. If a *Vassal* happens to be out-lawed, which in *Scotland* is generally the first Writ of Execution upon every Judgment or Decree for Debt, and remains so for a Year, which he must do, unless in that Time he pays the Debt, or gives some Satisfaction to his Creditor, the *Superior* gets thereby a Right to his Estate for his, the out-lawed *Vassal's* Life, and may by a very short Process turn him directly out of Possession.

By these *Casualties* the Reader may see, how much a *Superior* may distress his *Vassal*, and consequently how careful every *Vassal* must be, especially a *Vassal* by *Ward-holding*, not to disoblige his *Superior*; but there are other Rights belonging to *Superiors* in *Scotland*, which are called *Military Personal Services*, and are still more oppressive. These Services consist in what they call *Hosting*, *Hunting*, *Watching*, and *Warding*, whereby the *Vassal* is obliged to attend in Arms, and at his own Expence, as often as his *Superior* calls him out to fight, or to a Hunting-Match, or to keep Watch in any Place the *Superior* appoints, or to guard his Person in any of his Peregrinations; and this seems to be by the Law of *Scotland* almost without any Limitation or Restraint upon the Part of the *Superior*, as to what Seasons, or  
how

how often in a Year he may call his *Vassals* out.

By a late Regulation or Decree of the *Lords of Session* in *Scotland* the *Vassal*, indeed, may commute or pay a certain Sum of Money, in lieu of each personal Attendance; but as to the Frequency or Duration of these Attendances, the *Superior* seems still to have an arbitrary Power over his *Vassal*, and when he has a great many such, they alone must put it in his Power to raise a Rebellion, as often as he is prompted either by his Interest or his Passion; for from the History of *Scotland* it is manifest, that the innumerable Commotions in that Country, have generally been more owing to private Interest or Passion than to any Concern for the Welfare or publick Good of their Country; which must always be the Case, in those Countries where the Government consists of a Confederacy of Princes, with a King at their Head, each of whom has a Sort of sole and arbitrary sovereign Power, within his own respective Territory, or over those he calls his own People. This the Barons had after the Conquest in *England*: This the Chiefs of *Clans* have always had in *Scotland*: This the sovereign Princes now have in *Germany*, and this shews the Excellency of the antient *Saxon* Consti-



Constitution; for by that the Lord of a Manor, how extensive soever it might be, had no sole and absolute Power over those within his Manor, but in every Case was obliged to have the Consent of his *Hall-mote*, so that he could issue no Orders, nor make any Decrees without the Consent of the Majority of the Freeholders within his Manor; and therefore his Resolves were not so subject to be govern'd by private Interest, Passion, or Caprice.

The Case of these Vassals in *Scotland*, when their *Superior* happens to take it into his Head to raise or join in a Rebellion, is really deplorable. If any of them refuse his Summons, and he succeeds in his Attempt, they forfeit their Estates to him, and their Families are ruined by their Disobedience: If they obey his Summons, and he or his Party be defeated, they forfeit their Lives and Estates to the Crown. 'Tis true, if they refuse to join their *Superior* in a Rebellion, and he fails of Success, they may now free themselves from their *Vassalage*, by an Act of the First of his late Majesty; but if the *Superior's* Rebellion should happen, by Success, to change its Name, such disobedient *Vassals* would then forfeit their Estates to their *Superior*, which Forfeitures he would certainly take Advantage of; and as it is impossible for

a Government to try and convict every little Land-holder that joins in an unsuccessful Rebellion, if the Rebellion appears at first to have an equal Lay for Success, such *Vassal* must of Course conclude, that he risks more by not joining his Superior in the Rebellion, than he can gain by refusing to join him; which is a Conclusion that no wise Government ought to leave any Room for.

But lest these Rights of *Superiority* should not be sufficient to establish in the Person of the *Superior* an arbitrary Power over his *Vassals*, most of them have got lodged in their Families, by hereditary Right, a *jurisdiction* Power over all their *Vassals* of every Kind; and some of these *jurisdiction* Powers extend not only over their own *Vassals*, but over a whole County or Province, and all the Inhabitants within the same.

These last are Hereditary Sheriff-ships, by which such a Family has got an Hereditary Right to be High-Sheriff of such a County, and enjoys all that *jurisdiction* Power, which in other Counties belong to the High-Sheriff appointed by the Crown; and it is to be observed, that as the Justices of Peace exercise but very little Power in *Scotland*, the High-Sheriff, or his Deputy, exercises more,  
and

and has a more arbitrary Power than such Officers have in *England*.

Hereditary Regalities or Royalties, by which a whole Country is erected into a Regality or Royalty, and the hereditary Lord of that Royalty is invested with almost a sovereign Power within that Royalty; for he has a Jurisdiction equal to the Justiciary Court, or Court of *King's-Bench* in *Scotland*: nay, he may even remove Trials from that Court to his own, except in Treason, Murder, Fire-raising, Robbery, and Rapes, if the Criminal resides within his Royalty; and the Justiciary Court cannot, by *Certiorari*, or otherwise, remove the Trial of any Crime that properly belongs to him. Then in civil Causes he has the same jurisdicitive Power with the Sheriff; and he has by Escheat the personal Estate of all those that are for any Cause, or by any Court whatsoever, outlawed, which is, as I have said, generally the very first Writ of Execution issued in *Scotland*, even in Actions of Debt, &c.

And lastly Baronies, which means a Land Estate, sometimes a very large one, united and erected into a Barony, in Favour of the Proprietor, who is thereby hereditarily vested with jurisdicitive Powers, almost equal to the Sheriffs.



From these jurisdicitive Powers it is apparent, that not only *Vassals*, but all those who live within the Extent of the Jurisdiction, must be very much under the Power, and obliged to court the Favour of that Family, within whose Jurisdiction they live ; and the short Leases usually granted to Farmers in *Scotland*, makes them much more dependent upon the Land-holders than the Farmers are in *England* ; for in *Scotland*, particularly in the *North*, the Farmers Leases are generally but for three or five Years, and seldom above seven ; so that if the Farmer has a cheap Lease, he is always in dread of being turned out ; and if he has a dear one, he is usually in Debt to his Landlord, and always in dread of having his Goods seized on, and his Family ruined. Whereas, in *England*, the Farmer's Leases are generally for Lives, or a long Term of Years, and if they pay their Rent regularly, they have little or no Dependence upon their Landlord.

Beside the Dependence created by the Shortness of the Farmer's Leases in *Scotland*, there is another Custom, which not only increases that Dependence, but renders the Farmers, in some Measure, the Slaves of their Landlords. The Custom I mean, is that of the Services due by almost all the  
Farmers

Farmers in *Scotland* to their Landlords, which Services consist in such as were antiently due in *England*, from the Tenants, by *Soccage* and *Villanage* Tenure; for the Farmers in *Scotland* are obliged to plow and sow the demesne Lands of their Landlord, he furnishing only the Seed; to reap his Corn, in Harvest; to carry out and spread his Dung; to dig his Turf; in short to do every Thing necessary for the Culture of his demesne Lands; and as such Services are no where exactly ascertained, they give the Landlord a Power to oppress his Farmers, or any one of his Farmers, whenever he pleases.

After this short Account of the Power which the great Lords, and other Landholders in *Scotland* still have over their *Vassals* and Farmers, and over all those that live within their hereditary Jurisdictions, I must observe, that this Power, like a two-edged Sword, cuts both Ways against the Peace of an established Government. If one of these Lords be a moderate, just, and generous Man, he has so many Ways to oblige and gratify those under his Power, that most of them are upon all Occasions ready to venture Life and Fortune at his Command; and the Majority being willing, they of Course will always have it in their Power to compel the

unwilling to list themselves in the Service, unless the Government has in that Neighbourhood a regular Army sufficient for their Protection. Therefore, whilst this Power is preserved, it will always be easy for such a Lord, when prompted by his Principle, his Ambition, his Interest, or his Resentment, to assemble a great Number of Men in Arms against an established Government; and two or three such Lords joining together, will be able in a few Days to form an Army, sufficient to stand an Engagement with the Regular Troops, unless a very great Number of them be always kept in the Country.

On the other Hand, when one of these great Lords, or even his Bailiff, or Delegate, happens to be unjust, oppressive, and cruel in his Disposition, let the supreme Government of the Kingdom be never so mild, the People under his Power must be oppressed, and will consequently be ready to join in any Enterprize that has a Tendency towards relieving them from that Oppression. Therefore such hereditary Powers and Jurisdictions may in both Cases be the Cause of a Rebellion, against the most mild and just Government; and if a particular Enquiry were to be made into the hereditary jurisdicitive Powers now subsisting in *Scotland*, and into the late Exercise



cise of those Powers, it might perhaps appear, that this was one of the original Causes of the late Rebellion, as well as of all the Commotions that happened in *Scotland* at the Time of, or have happen'd since the *Revolution*; for as most of those that are possessed of such jurisdicative Powers, now reside almost continually at *London*, or in *England*, and delegate their Power to Bailiffs and Under-Agents, those Delegates may for a long Time oppress the People in a cruel Manner, without its coming to the Knowledge of any of our supreme Magistrates, or even of the Person who delegates his Power to them; because such Oppressors generally treat those they resolve to lay their Paws upon, as Rat-catchers do Rats, they give them such a sudden and severe Squeeze, as puts it out of their Power, either to bite or complain in a proper Manner.

These being at present the Circumstances of the People of *Scotland*, and from these Circumstances it being apparent, that the Farmers are in some Measure the Slaves of the Land-holders, and that the Land-holders are most of them in some Measure the Slaves of their *Superiors*, especially if those *Superiors* be vested with any hereditary jurisdicative Powers, as most of them are, every one must

ſee, that the moſt effectual, and indeed the only effectual Method for preventing any future Rebellions in *Scotland*, is to abolish all *hereditary Jurifdictions*, and all *Casualties* and *Personal Services*, and to make the People in *Scotland* as free and independent of their *Superiors* or *Landlords*, as the People now are in *England*; which may eaſily be done, without any great Expence to the Publick, and without doing a real Injury to any *hereditary Magiſtrate*, *Superior*, or *Landlord* in *Scotland*. Unless ſomething of this Sort be done, and effectual Methods taken for having the People of *Scotland* educated in right political Principles, and employ'd in Trade and Manufactures, a numerous Army of mercenary Troops muſt always be kept up in that Country, which, I hope, the *British* Parliament will never agree to: I am ſure, they never will, unleſs they are reſolved to make a Preſent of their Liberties to their Sovereign.

Hitherto I have touched only upon the remote Cauſes of the laſt Rebellion, I now come to thoſe that were more immediate; and here I muſt obſerve, that conſidering the Circumſtances of the People of *Scotland*, at the Time the War was declared between *France* and us: Conſidering that a great Number of them were diſaffected, that a much greater

greater Number were discontented, and that the disaffected or discontented Lords, and considerable Land-holders, had it in their Power to raise great Numbers of Men, either by Persuasion or Compulsion, it was a Surprise to every one that was not an utter Stranger to the Country, to find that Part of the united Kingdom, especially the North, almost entirely drained of regular Troops; but it was a much greater Surprise to learn, that no Methods had been taken to discipline the well-affected *Militia*, or to provide *Magazines* of Arms for their Use, according to the Directions of the 6th Section of the Act before mentioned.

Was it not to be expected, that in a War with *France* and *Spain*, some Attempt would be made to land the young *Pretender*, who was then in *France*, amongst us? And as they had failed in their Attempt upon *England*, was it not to be expected, that their next Attempt would be in *Scotland*? Could it be expected, that we could guard the Coast of *Scotland*, by our Cruisers, so as to prevent two or three Men of War coming from *France* to land the young *Pretender* in that Country, with Arms and Ammunition for such as should join him? Could it be supposed, that the well-affected without Arms, without



without Ammunition, could oppose the Disaffected and Discontented, who were much more numerous, when provided with Arms and Ammunition from our declared Enemies the *French* and *Spaniards*? We know, that in all Countries where regular Armies are kept up, the People not only become unacquainted with Arms and Discipline, but become unwilling and averse to fight against those, who do not come in Search of Plunder but Dominion. They think themselves no Way concerned in the Dispute, or if they do, they trust entirely to the regular Troops for their Defence, and when they find them defeated, they submit easily to the Conqueror.

I know it may be objected, that as all the Wealth, all the Arms, all the Ammunition, and in short all the chief Nobility and Gentry of the United Kingdoms, are now lodged in and about the City *London*, and as that City is now grown to such a monstrous Size, every one must know, that no Rebellion can succeed against an established Government, while it keeps Possession of that City, therefore it was not to be supposed, that any of the *Scottish* Nobility or chief Gentry would be so mad as to join the *Pretender*, should he land amongst them, unless he brought along with him a great Body of Regular Troops,  
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and this we could always prevent by our Navy. In answer to this I must allow, that whilst our Government keeps Possession of *London*, it needs be in no great Fear of an Invasion or Insurrection, which by the Bye I must observe betokens no Good to our Liberties; but this is known to very few Gentlemen in *Scotland*; and if it had, the Promises of Assistance from the two powerful Kingdoms of *France* and *Spain*, might have furnished them with Hopes of surmounting this Obstacle. They had a farther Encouragement from the loud Clamours so generally spread, for some Years before, all over *England*, against Bribery and Corruption. This they had been fully informed of by the Instructions sent from most Counties, Cities, and Boroughs to their Representatives, and published in our Daily, Weekly, and Monthly News-Papers; and as no Step had been taken to remove this Grievance, as the Bills proposed for that Purpose had often and lately been rejected, they from thence vainly imagined, that the People of *England*, particularly the City of *London*, would take the first Opportunity to declare in their Favour.

We could not but foresee that these Considerations would have great Weight with the Disaffected in *Scotland*, and when urged by him

him they call their only rightful King, might prevail with great Numbers of them to take Arms against the Government, should they be furnished with an Opportunity to assemble in a Body, by the Country's being drained of Regular Troops. How imprudent then, how cruel was it to withdraw all the Regular Troops from the *North* and *Highlands* of *Scotland*, without taking any one other Method for preserving the Peace of that Country. No one in *England*, surely, had any Intention, that a Rebellion should be raised in *Scotland*; but from such a Conduct at such a critical Conjunction, one would be apt to conclude, either that we were ignorant of the Circumstances of that Country, or that we very little attended to the Preservation of its Tranquillity. Nay, so little did we attend to preserving Peace in that Country, that after we had certain Information of the *young Pretender's* landing in one of the *Western* Islands of *Scotland*, and of his endeavouring to get his Friends to take Arms in his Favour, no immediate Care was taken by those whose Duty it was to think of, and give the best Advice upon such an important Occasion : I say, no immediate Care was taken by them, to have either Arms or proper Directions sent to the well-affected in that Part of the united Kingdom:



Kingdom: Sir *John Cope* only had Orders sent him to assemble what forces he had, and march to the North, to quell any Insurrection that might happen there: From whence it is to be presumed that we thought, an Insurrection of *Highlanders*, provided with Arms and Ammunition, led on by their Chiefs, and headed by the *young Pretender* in Person, would be as easily quelled as a Mob of *unarmed Butchers* or *Colliers* in *England*.

Was this judging? Could such a Judgment proceed from any Thing but a total Ignorance of the Circumstances of the Country, as well as of the Nature of the People? If we had known any thing of either, we must have known, that before Sir *John Cope* could assemble his Forces, which were then all in the *South of Scotland*, and march to the *North*, the Disaffected would be got to a Head too mighty for him to deal with, considering the small Body of regular Troops he could carry along with him. This was evident, and if it had not been for the Address and Diligence of a learned Judge of *Scotland*, who as soon as he heard of the *Pretender's* Landing, repaired to *Inverness*, and who, from his Moderation, Justice, and good Sense, has always had great Influence even among the Disaffected: I say, if it had not been for this Gentleman,

Gentleman, the Rebels would have become so numerous, upon their first Appearance, that Sir *John Cope* could not have ventured to march against them, or even to stay for them any where in *Scotland*; for by this Gentleman's Influence alone, several *Thousands* were prevented from joining them, that would otherwise have joined them at the first Call; and in that Case they might have marched to *England* sooner than they did, with at least 15 or 16000 Men. If they had done so, God knows what might have been the Consequence; therefore it may justly be said, that in some Measure we owe the Preservation of our present happy Establishment to this worthy Gentleman's Address and Diligence upon that important Occasion.

After having thus shewn the original and true Causes of the last Rebellion in *Scotland*, I cannot help again expressing my Surprize at some of the Regulations contained in the Act passed at the End of the last Session, for the more effectual disarming the *Highlands* of *Scotland*, &c. The Regulations I mean are, That for disarming the People of the *whole North of Scotland*, and that for stripping the *Highlanders* of their usual Garb. With respect to the Disaffected, the Inefficacy, and with respect to the well-affected, the bad Effect of  
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the first of these Regulations, I have already shewn to be apparent from Reason ; and the last Rebellion had made both so apparent from Experience, that Nothing but the Art of those who are possessed of hereditary Jurisdictions, and great Superiorities in *Scotland*, could have led us into the reviving, and a second Time establishing such a Regulation. It was at first a Tub thrown out for the Whale, by self-interested Men, to prevent her attacking the Ship on which their Properties were embarked, therefore the Mistake was at first excusable, but after Experience had made the Mistake apparent, if we had last Session had Time to have considered the Affair maturely, no Artifice could have led us a second Time into the same Mistake.

As to the other Regulation for stripping the *Highlanders* of their usual Clothes, I do not know what to think of it, at least I shall not say what I think : If it were to be put rigorously in Execution, most of the poor People in that Country, as I have already observed, would be stript naked, and in a free Country it is of the most dangerous Consequence, to enact any Law that in its Nature does not admit of a rigorous Execution ; because it necessarily vests in the civil Magistrate a Sort of dispensing Power, which is inconsistent with  
Liberty,



Liberty, and may breed Disaffection to our present happy Establishment. Therefore, I must suspect, that either the *Jacobites*, or those that are possessed of *hereditary Jurisdictions* in the *Highlands* of *Scotland*, were under hand the first Promoters of this Regulation. Surely the *Highland Garb*, or a *Party-coloured* Plaid or Stuff, does not infect People with *Jacobitism*, because many of those that wear it, have upon all Occasions, particularly the last, taken Arms in favour of the Government : It cannot be look'd on even as a *Badge* of *Jacobitism*, because his Majesty's Officers and Soldiers are by this Law expressly allow'd to wear it. I cannot therefore, for my Life, comprehend what else could induce People to think of, or agree to a Regulation that will be vastly inconvenient, if not absolutely impracticable, for a great Number of his Majesty's faithful Subjects.

I must for this Reason suppose, that both this and the former Regulation proceeded from the Hurry Gentlemen were in at the End of last Session, and that the Affair will be reconsider'd in this. I humbly think it absolutely necessary that it should : If it is, I hope, Gentlemen will coolly and deliberately consider it, without allowing themselves to be biassed by any of those provincial, or party Prejudices,

Prejudices, with which none are ever infected, but Men of little Minds, or of a mean Birth, and low Education, and from such Men no Candour, no Impartiality, no right Judgment can, in any Case of Importance, be expected.

By provincial Prejudices I mean those that, during our Nonage, are inculcated by ignorant Nurses, or pedantical Tutors, in Favour of the People of our own Country or Province, and against the People of any other ; and by party Prejudices I mean, those that are, the same Way, inculcated, in Favour of those of our own Party in Politicks or Sect in Religion, and against those of every other. Such Prejudices are generally extravagant and unjust among the Vulgar of every Country and Party ; and are always industriously and artfully propagated by those who are resolved to introduce and establish an absolute and arbitrary Government.

But, I hope, there are none such in either House of Parliament, therefore, I think, we have Reason to expect, that this Affair will not only be reconsidered this Session, but that it will be sifted to the Bottom, that the true Causes of the last Rebellion will be detected, and the most proper and effectual Regulations established for removing them in

Time to come, without any farther Regard to the Properties of private Men, than to consider what real Loss they may sustain by such Regulations, and to allow them an adequate Recompence for that Loss, which cannot amount to a Sum any thing near equal to what the last Rebellion has cost the Nation, besides the Interruption it gave to the Prosecution of the War we are now so justly engaged in.

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